II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 11 March 2009

on the publication with a restriction of the reference of standard EN 12312-9:2005 'Aircraft ground support equipment — Specific requirements — Part 9: Container/Pallet loaders' in accordance with Directive 98/37/EC of the European Parliament and of the Council

(notified under document number C(2009) 1551)

(Text with EEA relevance)

(2009/180/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 98/37/EC of the European Parliament and of the Council of 22 June 1998 on the approximation of the laws of the Member States relating to machinery [1], and in particular Article 6(1) thereof,

Having regard to the opinion of the standing committee set up by Article 5 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services [2],

Whereas:

(1) Where a national standard transposing a harmonised standard, the reference of which has been published in the *Official Journal of the European Union*, covers one or more essential health and safety requirements set out in Annex I to Directive 98/37/EC, a machine built in accordance with that standard is presumed to meet the essential requirements concerned.

(2) Pursuant to Article 6(1) of Directive 98/37/EC, France lodged a formal objection in respect of standard EN 12312-9:2005, 'Aircraft ground support equipment — Specific requirements — Part 9: Container/Pallet loaders' adopted by the European Committee for Standardisation (CEN) on 21 March 2005, the reference of which has been published in the *Official Journal of the European Union* [3].

(3) One of the main risks associated with airport container and pallet loaders is the risk of falling from the raised operating position and from other positions to which the operators have access when operating the cargo doors and handling the loads. The means of protection against this risk must be effective while accommodating the shape of the aircraft and avoiding damage to it.

(4) Having examined standard EN 12312-9:2005, the Commission has established that it fails to meet the essential health and safety requirement 1.5.15 of Annex I to Directive 98/37/EC on the risk of slipping, tripping or falling, in conjunction with the essential health requirement 1.1.2(b) of that Annex on the principles of safety integration. In particular, clause 5.6 of the standard 'Crushing, shearing and falling', does not give specifications for the choice, design, location and construction of the means to be used to protect against falling from container and pallet loaders but only refers to the general specifications of EN 1915-1:2001, 'Aircraft ground support equipment — General requirements — Part 1: Basic safety requirements' which describe the various types of protection that can be used.

[1] OJ L 207, 23.7.1998, p. 1.
[2] OJ L 204, 21.7.1998, p. 37.
[3] OJ C 336, 31.12.2005, p. 12.

(5) In the interest of safety and legal certainty, the publication in the *Official Journal of the European Union* of the reference of standard EN 12312-9:2005 should therefore be accompanied by an appropriate warning.

(6) Member States should add an identical warning in their publication of the reference of national standards transposing standard EN 12312-9:2005,

HAS ADOPTED THIS DECISION:

Article 1

The publication in the *Official Journal of the European Union* of the reference of standard EN 12312-9:2005 'Aircraft ground support equipment — Specific requirements — Part 9: Container/Pallet loaders' shall be as set out in the Annex.

Article 2

Where, pursuant to Article 5(2) of Directive 98/37/EC, Member States publish the reference of a national standard transposing harmonised standard EN 12312-9:2005, they shall add to that publication a warning identical to that set out in the Annex to this Decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 11 March 2009.

For the Commission
Günter VERHEUGEN
Vice-President

ANNEX

Publication of titles and references of European harmonised standards under Directive 98/37/EC

ESO ([1])	Reference and title of the harmonised standard (and reference document)	First publication OJ	Reference of superseded standard	Date of cessation of presumption of conformity of superseded standard (Note 1)
CEN	EN 12312-9:2005 Aircraft ground support equipment — Specific requirements — Part 9: Container/Pallet loaders	31.12.2005	—	

Warning: This publication does not concern clause 5.6 of the standard, the application of which does not confer a presumption of conformity with the essential health and safety requirement 1.5.15 of Annex I to Directive 98/37/EC, in conjunction with the requirement 1.1.2(b) of that Annex.

([1]) ESO: European Standards Organisation:
— CEN: rue de Stassart/de Stassartstraat 36, 1050 Bruxelles/Brussel, Belgique/België, tél./tel. + 32 25500811; fax + 32 25500819 (http://www.cen.eu).

Note 1 Generally the date of cessation of presumption of conformity will be the date of withdrawal (dow), set by the European Standardisation Organisation, but attention of users of these standards is drawn to the fact that in certain exceptional cases this can be otherwise.

Note:

— any information concerning the availability of the standards can be obtained either from the European Standardisation Organisations or from the national standardisation bodies of which the list is annexed to the Directive 98/34/EC,

— publication of the references in the *Official Journal of the European Union* does not imply that the standards are available in all the Community languages.

More information about harmonised standards on the Internet at:

http://europa.eu.int/comm/enterprise/newapproach/standardization/harmstds/